

## § 74. Maintenance

### (a) Pledge of funds for upkeep; authorization of appropriations

The faith of the United States is pledged that, on completion of the National Gallery of Art by the donor in accordance with the terms of this subchapter and the acquisition from the donor of the collection of works of art, the United States will provide such funds as may be necessary for the upkeep of the National Gallery of Art and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the board, so that the National Gallery of Art shall be at all times properly maintained and the works of art contained therein shall be exhibited regularly to the general public free of charge. For these purposes, and to provide, prior to the completion of the National Gallery of Art, for the protection and care of the works of art in said Gallery and for administrative and operating expenses and equipment preparatory to the opening of the Gallery to the public, there are authorized to be appropriated such sums as may be necessary.

### (b) Acceptance of gifts and other property; investment of funds

The board is authorized to accept for the Smithsonian Institution and to hold and administer gifts, bequests, or devises of money, securities, or other property of whatsoever character for the benefit of the National Gallery of Art. Unless otherwise restricted by the terms of the gift, bequest, or devise, the board is authorized to sell or exchange and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property composing trust funds given, bequeathed, or devised to or for the benefit of the National Gallery of Art. The income as and when collected shall be placed in such depositaries as the board shall determine and shall be subject to expenditure by the board.

### (c) Appointment and compensation of officers and employees

The board shall appoint and fix the compensation and duties of a director, an assistant director, a secretary, and a chief curator of the National Gallery of Art, and of such other officers and employees of the National Gallery of Art as may be necessary for the efficient administration of the functions of the board. Such director, assistant director, secretary, and chief curator shall be compensated from trust funds available to the board for the purpose, and their appointment and salaries shall not be subject to the civil-service laws or chapter 51 and subchapter III of chapter 53 of title 5. The director, assistant director, secretary, and chief curator shall be well qualified by experience and training to perform the duties of their office and the original appointment to each such office shall be subject to the approval of the donor.

### (d) Review of actions of board

The actions of the board, including any payment made or directed to be made by it from any trust funds, shall not be subject to review by any officer or agency other than a court of law.

(Mar. 24, 1937, ch. 50, § 4, 50 Stat. 52; Apr. 13, 1939, ch. 61, 53 Stat. 577; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

#### CODIFICATION

In subsec. (c), “chapter 51 and subchapter III of chapter 53 of title 5” substituted for “the Classification Act of 1949, as amended” on authority of Pub. L. 89-554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### AMENDMENTS

1949—Act Oct. 28, 1949, substituted “Classification Act of 1949” for “Classification Act of 1923”.

1939—Subsec. (a). Act Apr. 13, 1939, inserted in last sentence “and to provide, prior to the completion of the National Gallery of Art, for the protection and care of the works of art in said Gallery and for administrative and operating expenses and equipment preparatory to the opening of the Gallery to the public”.

#### REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

### § 74a. Permanent loan of funds by Board of Trustees to Treasury; semiannual interest payments to Board

The Secretary of the Treasury is authorized and directed to receive into the Treasury from time to time as a permanent loan by the Board of Trustees of the National Gallery of Art to the United States sums in cash of not to exceed \$5,000,000 in the aggregate, and to pay interest on the principal amount of such loan at a rate which is the higher of the rate of 4 per centum per annum or a rate which is .25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 per centum, payable semiannually. Such interest is permanently appropriated for payment to the Board of Trustees of the National Gallery of Art.

(Apr. 10, 1943, ch. 46, 57 Stat. 62; Pub. L. 94-418, Sept. 21, 1976, 90 Stat. 1278.)

#### CODIFICATION

Section was not enacted as part of act Mar. 24, 1937, ch. 50, 50 Stat. 51, which comprises this subchapter.

#### AMENDMENTS

1976—Pub. L. 94-418 inserted provision authorizing alternate interest rate to existing interest rate of 4 per centum per annum.

## § 75. Authority and functions of the board

### (a) Official seal; bylaws, rules, and regulations; quorum

The board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations, as it deems necessary for the administration of its functions under this subchapter, including, among other matters, bylaws, rules, and regulations relating to the acquisition, exhibition, and loan of works of art, the administration of its trust funds, and the organization and procedure

of the board. The board may function notwithstanding vacancies, and three members of the board shall constitute a quorum for the transaction of business.

**(b) Quality of works of art**

In order that the collection of the National Gallery of Art shall always be maintained at a high standard and in order to prevent the introduction therein of inferior works of art, no work of art shall be included in the permanent collection of the National Gallery of Art unless it be of similar high standard of quality to those in the collection acquired from the donor.

**(c) Powers and obligations**

The board shall have all the usual powers and obligations of a trustee in respect of all trust funds administered by it and all works of art acquired by it.

**(d) Annual reports**

The board shall submit to the Smithsonian Institution an annual report of its operations under this subchapter, including a detailed statement of all acquisitions and loans of works of art and of all public and private moneys received and disbursed.

(Mar. 24, 1937, ch. 50, § 5, 50 Stat. 53.)

SUBCHAPTER III—NATIONAL PORTRAIT GALLERY

**§ 75a. Definitions**

For the purposes of this subchapter—

(a) The term “Board” means the Board of Regents of the Smithsonian Institution.

(b) The term “Commission” means the National Portrait Gallery Commission as provided for in this subchapter.

(c) The term “Gallery” means the National Portrait Gallery established by this subchapter.

(d) The term “gift” includes a gift, bequest, or devise, whether outright or in trust, and any legal instrument by which the gift is effected.

(e) The term “portraiture” includes portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter.

(Pub. L. 87-443, § 2, Apr. 27, 1962, 76 Stat. 62; Pub. L. 94-209, Feb. 5, 1976, 90 Stat. 30.)

AMENDMENTS

1976—Subsec. (e). Pub. L. 94-209 substituted “includes portraits and reproductions thereof made by any means or process, whether invented or developed heretofore or hereafter” for “for purposes of this subchapter shall mean painted or sculptured likenesses”.

SHORT TITLE

Pub. L. 87-443, § 1, Apr. 27, 1962, 76 Stat. 62, provided: “That this Act [enacting this subchapter] may be cited as the ‘National Portrait Gallery Act.’”

**§ 75b. Establishment of National Portrait Gallery; functions**

(a) There is established in the Smithsonian Institution a bureau which shall be known as the National Portrait Gallery. The functions of such bureau shall be those authorized by this subchapter. The use for the purposes of the Gallery of any part of the building transferred to the

Smithsonian Institution pursuant to the Act of March 28, 1958 (72 Stat. 68), is authorized.

(b) The Gallery shall function as a free public museum for the exhibition and study of portraiture and statuary depicting men and women who have made significant contributions to the history, development, and culture of the people of the United States and of the artists who created such portraiture and statuary.

(Pub. L. 87-443, § 3, Apr. 27, 1962, 76 Stat. 62.)

REFERENCES IN TEXT

Act of March 28, 1958, referred to in subsec. (a), is act Mar. 28, 1958, Pub. L. 85-357, 72 Stat. 68, which was not classified to the Code.

PATENT OFFICE BUILDING IMPROVEMENTS

Pub. L. 108-72, § 3, Aug. 15, 2003, 117 Stat. 888, provided that:

“(a) AUTHORIZATION OF USE OF FUNDS.—

“(1) IN GENERAL.—The Board of Regents of the Smithsonian Institution may plan, design, and construct improvements to the interior and exterior of the Patent Office Building (including the construction of a roof covering for the courtyard), using funds available to the Institution from nonappropriated sources.

“(2) DEFINITION.—In this section, the term ‘Patent Office Building’ means the building transferred to the Smithsonian Institution pursuant to Public Law 85-357 [72 Stat. 68].

“(b) DESIGN AND SPECIFICATIONS.—The design and specifications for any exterior alterations authorized by subsection (a) shall be—

“(1) submitted by the Secretary of the Smithsonian Institution (referred to in this section as the ‘Secretary’) to the Commission of Fine Arts for comments and recommendations; and

“(2) subject to the review and approval of the National Capital Planning Commission in accordance with section 8722 of title 40, United States Code, and section 16 of the Act of June 20, 1938 (sec. 6-641.15, D.C. Official Code).

“(c) AUTHORITY OF HISTORIC PRESERVATION AGENCIES.—

“(1) IN GENERAL.—The Secretary shall—

“(A) take into account the effect of the improvements authorized by subsection (a) on the historic character of the Patent Office Building; and

“(B) provide the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to such improvements.

“(2) STATUS OF SMITHSONIAN.—In carrying out this subsection, and in carrying out other projects in the District of Columbia which are subject to the review and approval of the National Capital Planning Commission in accordance with section 16 of the Act of June 20, 1938 (sec. 6-641.15, D.C. Official Code), the Smithsonian Institution shall be deemed to be an agency for purposes of compliance with regulations promulgated by the Advisory Council on Historic Preservation pursuant to section 106 of the National Historic Preservation Act ([former] 16 U.S.C. 470f) [see 54 U.S.C. 306103].”

**§ 75c. Creation of National Portrait Gallery Commission; members; functions; powers**

There is created the National Portrait Gallery Commission. The number, manner of appointment and tenure of the members of the Commission shall be such as the Board may from time to time prescribe. The Board may delegate to the Commission any function of the Gallery or any function of the Board with respect to the Gallery. The Board may make rules and regulations for the conduct of the affairs of the Com-